

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

LC 2002-000260

05/15/2003

HONORABLE MICHAEL D. JONES

CLERK OF THE COURT
P. M. Espinoza
Deputy

FILED: _____

STATE OF ARIZONA

GERALD R GRANT

v.

ROBERT C SNYDER

LAWRENCE I KAZAN

PEORIA JUSTICE COURT
REMAND DESK-LCA-CCC

MINUTE ENTRY

PEORIA JUSTICE COURT

Cit. No. #TR01-03786CR

Charge: CT 1 AND CT 2: DRIVING OR ACTUAL PHYSICAL CONTROL WHILE
UNDER THE INFLUENCE OF INTOXICATING LIQUOR OR DRUGS, CLASS 1
MISDEMEANORS

DOB: 01/19/76

DOC: 10/18/00

This Court has jurisdiction of this appeal pursuant to the Arizona Constitution Article VI,
Section 16, and A.R.S. Section 12-124(A).

Appellant, Robert C. Snyder, was accused of Driving While Under the Influence of
Intoxicating Liquor, a class 1 misdemeanor in violation of A.R.S. Section 28-1381(A)(1), and
Driving with a Blood Alcohol Concentration of .10 or Greater, a class 1 misdemeanor, in
violation of A.R.S. Section 28-1381(A)(2), alleged to have been committed on October 18, 2000.
On that date, Appellant was involved in a one-vehicle rollover accident near State Route 101 and
Docket Code 512

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Peoria Avenue. DPS Officer David Lucero, observed a single male in the driver's seat of a Ford pickup truck that had rolled on to its side. Because of his injuries, Appellant was transported to a local hospital. A paramedic, Dawn Elliot, informed Officer Lucero that she smelled alcohol on Appellant's breath. Lucero then requested the DPS dispatcher to send an officer to the hospital to retrieve a blood sample from Appellant. That officer was DPS Officer Bridgett Favela. When Favela arrived at the hospital, she asked for Robert Snyder and was taken to the trauma room where he was located.¹ Officer Favela personally observed the blood draw by hospital personnel.² Officer Favela was not able to identify Appellant in court and she explained that she did not recognize his face; however, she did testify:

It (State's exhibit 5-a standard blood kit) identifies Mr. Snyder up here and it's crossed out right here because I didn't have the correct spelling of his name so I re-wrote it above. Its got the place that the blood was drawn, the time of the blood draw and the date. Its got the name of the nurse that drew the blood and the date and its got my name on here that I actually witnessed the blood draw at that time. And there's another consent form that says hospital drew for medical-so I got some of the blood they drew. There's also the kit inside with two vials of blood that we used to draw and they are identified as well with the two seals on them that are on the box as well, the same seals.³

Officer Favela also explained that she took the blood vials from a registered nurse named Michelle Gould, filled out the paperwork, and sealed the box. Officer Favela explained that she identified Appellant, Robert Snyder, because he was identified to her as Robert Snyder.⁴

Appellant objected to the admission of Exhibit 5 on the basis of foundation. This objection was overruled by the trial judge who felt that the objection "goes to weight more than admissibility...."⁵ Appellant argues on appeal that the only evidence linking Appellant to Exhibit 5- - and the only evidence identifying the blood as belonging to Appellant, was hearsay information. That is, the information provided by hospital personnel to Officer Brigett Favela identifying Appellant, by his location in a specific trauma room, as Robert Snyder.

Rule 901(a) of the Arizona Rules of Evidence, requires authentication or identification as a precondition to the admissibility of evidence:

The requirement of authentication or identification as a condition precedent to admissibility is satisfied by evidence

¹ R.T. of April 5, 2002, at page 95.

² Id.

³ Id., at page 92.

⁴ Id., at page 95.

⁵ Id., at page 97.

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sufficient to support a finding that the matter in question is what its proponent claims.

And, preliminary questions of admissibility are controlled by Rule 104(a), Arizona Rules of Evidence:

Preliminary questions concerning the qualification of a person to be a witness, the existence of a privilege, or the admissibility of evidence shall be determined by the court, subject to the provisions of subdivision (b). In making its determination, it is not bound by the Rules of Evidence except those with respect to privileges.

The testimony of Officer Favela clearly demonstrates that she observed the blood draw occur, and was handed the blood vials from the nurse who drew the blood. The only issue, then, is whether the person from whom the blood was drawn was Appellant, Robert Snyder. The only evidence of this is the hearsay statements or conduct of hospital personnel in directing Officer Favela to the particular trauma room where Robert Snyder was located. This appears to be a situation where this hearsay is admissible pursuant to Rule 104, Arizona Rules of Evidence, on the preliminary question of the admissibility of Exhibit 5 (the blood kit). Therefore, this Court concludes that the trial judge's order overruling Appellant's objection to Exhibit 5 was correct.⁶

IT IS THEREFORE ORDERED affirming the conviction and sentence in this case of the Peoria Justice Court.

IT IS FURTHER ORDERED remanding this case back to the Peoria Justice Court for all further and future proceedings in this case.

/S/ HONORABLE MICHAEL D. JONES

JUDICIAL OFFICER OF THE SUPERIOR COURT

⁶ Though the trial judge did not make the same findings as this court, the result is the same.
Docket Code 512